

IN RE: PETITION FOR SPECIAL HEARING
S/S Harford Road, 2,200' N/E of the c/l
Park Forest Lane
(12943 Harford Road)
11th Election District
5th Council District

Asher A. Rodriquez, et ux
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 02-288-SPH
*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner for consideration of a Petition for Special Hearing filed by the owners of the subject property, Asher A. and Tisha A. Rodriquez, through their attorney, Francis X. Borgerding, Jr., Esquire. The Petitioners request a special hearing to approve a chiropractor's office with more than 25% of the total floor area of the owner's residence to be located in an accessory building. The subject property and requested relief are more particularly described on the site plan submitted which was accepted into evidence and marked as Petitioner's Exhibit 1.

Appearing at the requisite public hearing in support of the request were Dr. Asher A. Rodriquez, property owner, Bruce E. Doak, a representative of Gerhold, Cross & Etzel, the consultants who prepared the site plan for this property, and Francis X. Borgerding Jr., Esquire, attorney for the Petitioners. Appearing as Protestants in the matter were Carol Shaw, a representative of the Long Green Valley Association, Doug Behr, on behalf of the Greater Kingsville Civic Association, and Carolyn J. Keesecher, all of whom reside in the area.

The subject property under consideration is a rectangular shaped parcel located on the south side of Harford Road, not far from Park Forest Lane and the Gunpowder Falls State Park in Hydes. The property contains a gross area of 5.344 acres, more or less, zoned R.C.2 and is improved with a 2½ story dwelling in which the Petitioners reside. In this regard, Dr. Rodriquez indicated that he and his wife and their 4 children have resided on the property for approximately 4

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Date

By

years. In addition to the dwelling, several accessory structures are located on the property, including two, 1-story wood sheds, and a 2½ story frame building, which is the subject of the instant request. This building is 30' x 34' in dimension and features a three-car garage on the first floor, and a wrap-around porch/wheelchair ramp which leads to the second floor. In addition, a portion of the property around this building has been paved to provide a parking area. Photographs of the property and improvements thereon were submitted at the hearing which show an attractive and well-maintained property.

Dr. Rodriquez is a licensed chiropractor by occupation and has maintained an office in Perry Hall since 1994. He proposes utilizing the second floor of the subject building as a medical office approximately two days a week. Apparently, he has been using the facility in this manner without formal zoning approval for approximately 6 months. Section 1A01.2.B.9(d) of the B.C.Z.R. permits the offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or other professional persons, as a permitted use by right in the R.C.2 zone. However, that Section requires that the office must be established within the same building that serves as the professional person's primary residence and that the office cannot occupy more than 25% of the total floor area of that residence. It is clear that Dr. Rodriquez' occupation as a chiropractor is a "professional person" as envisioned by the regulations. The question presented here is whether the use is permitted when same occupies a separate building and is greater than 25% of the floor area of the dwelling.

Testimony was offered regarding the proposed operation. As noted above, Dr. Rodriquez primarily practices at an office in Perry Hall. He envisions operating on the subject property on Wednesdays and Fridays from approximately 9AM to 5PM; however, he indicated that office hours could be later for certain emergencies and actually could occur most any day of the week except Sunday. He does not anticipate presently maintaining any staff at the site, but possibly might have a receptionist/office administrator if the practice at this location grows. In this regard, the statute permits no more than one, non-resident employee. Dr. Rodriquez also described the layout of the office. Apparently there are two examining rooms and an office/waiting area.

Moreover, as noted above, a portion the property around the building has been paved so as to provide adequate parking.

Testimony and evidence was also received from the Protestants who appeared. They also produced letters from local community associations in opposition to the request. Generally, the Protestants object to a commercial operation in this rural locale and believe that same is an inappropriate use of the subject property. Concerns were also expressed regarding traffic. Apparently, Harford Road is narrow at this location and there were concerns expressed about access to the site.

The undersigned Zoning Commissioner also raised an issue at the hearing regarding whether the relief requested can be legally granted. Arguably, the request seeks a use variance which under law, cannot be granted by the Zoning Commissioner; however, Counsel for the Petitioners produced a prior decision rendered by Deputy Zoning Commissioner Timothy M. Kotroco in Case No. 01-027-SPH. In that case, relief was granted to approve a home office as an accessory use when the office was not physically located within the primary building. However, relief to permit greater than 25% usage of the total floor area of the dwelling was not considered.

From a land-use standpoint, the R.C.2 classification is the most restrictive in the scheme of the B.C.Z.R. In Section 1A01.1.B of the B.C.Z.R., the purposes of the R.C.2 zoning classification are set out. That classification was established to foster conditions favorable to a continued agricultural use, by preventing incompatible forms and degrees of urban uses therein. It is clear that the use of a portion of a dwelling by a professional person is permitted in only limited circumstances. Indeed, that use is categorized as an accessory use to the primary use of the property for residential purposes.

I am appreciative of the reasons for Dr. Rodriquez' request. He owns a relatively large piece of property and the site is improved with an accessory building that would be suitable for the proposed use. Nonetheless, it is clear that the Petition for Special Hearing cannot be granted in this instance. Simply stated, the proposed use would be an intensive commercial use of the subject property, which is contrary to the express purposes of the R.C.2 zone and inconsistent with the

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By

surrounding locale. By its nature, the office can be expected to generate significant traffic which is incompatible both with the existing road network and the rural zoning and nature of this property and the area. The fact that the Petitioner has already been operating at this site is not persuasive. The property owner is assumed to know the law and his development of the building into medical offices is not a basis upon which relief can be granted. In sum, even assuming arguendo that the Zoning Commissioner could grant the relief sought, it would not be granted here, given that the proposed office will not be located within the primary residence on the property, as required, and is greater in area than the 25% allowed. For all of these reasons, I must deny the relief requested.

Pursuant to the advertisement, posting of the property and public hearing on this Petition held, and for the reasons set forth herein, the relief requested shall be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 12th day of April, 2002 that the Petition for Special Hearing to approve a chiropractor's office with more than 25% of the total floor area of the owner's residence to be located in an accessory building, in accordance with Petitioner's Exhibit 1, be and is hereby DENIED, and the Petitioner shall cease and desist using the accessory building for any purpose other than residential.

Any appeal of this decision must be filed within thirty (30) days of the date of this Order.



LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

ORDER RECEIVED FOR FILING
Date 4/11/02
By [Signature]



Baltimore County
Zoning Commissioner

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386
Fax: 410-887-3468

April 1, 2002

Francis X. Borgerding, Jr., Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: PETITION FOR SPECIAL HEARING
S/S Harford Road, 2,200' NE of the c/l Park Forest Lane
(12943 Harford Road)
11th Election District – 5th Council District
Asher A. Rodriguez, et ux - Petitioners
Case No. 02-288-SPH

Dear Mr. Borgerding:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Special Hearing has been denied, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very truly yours,

A handwritten signature in black ink, reading "Lawrence E. Schmidt".

LAWRENCE E. SCHMIDT
Zoning Commissioner
for Baltimore County

LES:bjs

cc: Dr. & Mrs. Asher A. Rodriguez
12943 Harford Road, Hydes, Md. 21082
Ms. Carol Shaw, 7 Country Hill Court, Kingsville, Md. 21087
Ms. Carolyn Keesecher, 12944 Harford Road, Hydes, Md. 21082
Mr. Doug Behr, 7451 Bradshaw Road, Kingsville, Md. 21087
People's Counsel; Case File





Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 12943 Harford Rd., Hydes, MD 21082
which is presently zoned R.C. 2

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve for office of a chiropractor in an accessory building with more than 25% of the total floor area of owners' residence

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print _____
Signature _____
Address _____ Telephone No. _____
City _____ State _____ Zip Code _____

Attorney For Petitioner:

Francis X. Borgerding, Jr.
Name - Type or Print _____
Signature _____
Company _____
409 Washington Ave., #600 410-296-6820
Address _____ Telephone No. _____
Towson MD 21204
City _____ State _____ Zip Code _____

Legal Owner(s):

Asher A. Rodriguez, D.C.
Name - Type or Print _____
Signature _____
Tisha A. Rodriguez
Name - Type or Print _____
Signature _____
12943 Harford Road 410-256-6717
Address _____ Telephone No. _____
Hydes MD 21082
City _____ State _____ Zip Code _____

Representative to be Contacted:

Francis X. Borgerding, Jr.
Name _____
409 Washington Ave., #600 410-296-6820
Address _____ Telephone No. _____
Towson MD 21204
City _____ State _____ Zip Code _____

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING 2.5 hr

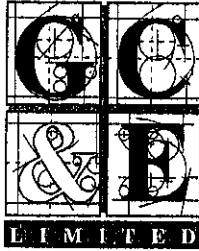
UNAVAILABLE FOR HEARING _____

Reviewed By [Signature] Date 01-08-02

Case No. 02-288-SPH

Date 9/15/98

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4/1/02
B



Gerhold, Cross & Etzel, Ltd.

Registered Professional Land Surveyors • Established 1906

Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

November 8, 2001

**ZONING DESCRIPTION
RODRIGUEZ PROPERTY
12943 HARFORD ROAD
ELEVENTH ELECTION DISTRICT
FIFTH COUNCILMANIC DISTRICT
BALTIMORE COUNTY, MARYLAND**

Beginning for the same in the center of Harford Road, distant 2,200 feet, more or less, measured northeasterly along the center of Harford Road from the intersection of the center of Harford Road with the center of Park Forest Lane, thence running and binding along the center of Harford Road, the three following courses and distances, viz: (1) North 58 degrees 49 minutes 30 seconds East 84.97 feet, (2) North 56 degrees 10 minutes 51 seconds East 122.39 feet, and (3) North 53 degrees 58 minutes 26 seconds East 158.49 feet, thence leaving Harford Road and running and binding on the lands of the herein petitioner, the three following courses and distances, viz: (4) South 39 degrees 38 minutes 34 seconds East 626.65 feet, (5) South 54 degrees 42 minutes 38 seconds West 379.50 feet, and (6) North 38 degrees 20 minutes 12 seconds West 632.94 feet to the place of beginning.

Containing 5.344 Acres of land, more or less.

Note: This description only satisfies the requirements of the Office of Zoning and is not to be used for the purposes of conveyance



288

CASE
02-288 No. 08840
- 504

ACCOUNT R-061-006-1150

AMOUNT \$ 250.00

Spec'fic' Mh're p'cthe' PC

FOR: ~~Commercial Special Hearing Filing Fee~~
12943 Harford Rd.

YELLOW - CUSTOMER

CASHIER'S VAL

SAVED
DATE 07-10-2008
TIME 14:07:29
FILED 07-10-2008

**NOTICE OF ZONING
HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #02-288-SPH
12943 Harford Road
S/S Harford Road, 200' E of
Park Forest Lane
11th Election District
5th Councilmanic District
Legal Owner(s): Tisha &
Asher Rodriguez

Special Hearing: to approve for office of a professional person (chiropractor) in an accessory building with more than 25% of the total floor area of owner's residence.

Hearing: Tuesday, March 12, 2002 at 8:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for
Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the file and/or hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/2/73 Feb. 26 C522766

CERTIFICATE OF PUBLICATION

3/1/, 2002

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/26/, 2002.

- ☒ The Jeffersonian
- ☐ Arbutus Times
- ☐ Catonsville Times
- ☐ Towson Times
- ☐ Owings Mills Times
- ☐ NE Booster/Reporter
- ☐ North County News

J. Wilkinson

LEGAL ADVERTISING

CERTIFICATE OF POSTING

RE. Case No. 02-288-SPN

Petitioner/Developer: RODRIGUEZ, ETAL
F.X. BORGERDING, JR. - ESQ.

Date of Hearing/Closing: 3/12/02

Baltimore County Department of
 Permits and Development Management
 County Office Building, Room 111
 111 West Chesapeake Avenue
 Towson, MD 21204

Attention: Ms. Gwendolyn Stephens GEORGE ZAHNER

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law
 were posted conspicuously on the property located at # 12943 - HARFORD RD.

The sign(s) were posted on 2/18/02
 (Month, Day, Year)

Sincerely,

Patrick M. O'Keefe 3/19/02
 (Signature of Sign Poster and Date)

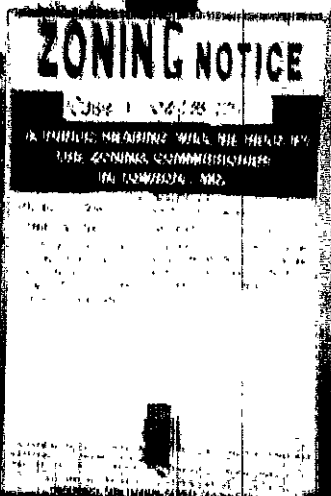
PATRICK M. O'KEEFE
 (Printed Name)

523 PENNY LANE
 (Address)

HUNT VALLEY, MD. 21030
 (City, State, Zip Code)

410-666-5366 ; CELL-410-905-8571
 (Telephone Number)

Post-it® Fax Note	Date	7671
	From	
	To	
	Co./Dept.	
	Phone #	
	Phone #	
	Fax #	



02-288

#12943 - HARFORD RD.

3/17/02

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT

ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 02-288-SPH

Petitioner: DR. Asher A. Rodriguez

Address or Location: 12943 Hanford Rd.

PLEASE FORWARD ADVERTISING BILL TO:

Name: Same

Address: Hydes, md 21082

Telephone Number: (410) 256-6717

TO: PATUXENT PUBLISHING COMPANY
Tuesday, February 26, 2002 Issue – Jeffersonian

Please forward billing to:
Asher A Rodriquez
12943 Harford Road
Hydes MD 21082

410 256-6717

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-288-SPH
12943 Harford Road
S/S Harford Road, 200' E of Park Forest Lane
11th Election District – 5th Councilmanic District
Legal Owner: Tisha & Asher Rodriquez

Special Hearing to approve for office of a professional person (chiropractor) in an accessory building with more than 25% of the total floor area of owner's residence.

HEARING: Tuesday, March 12, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue



Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

- NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Director's Office
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
410-887-3353
Fax: 410-887-5708

January 31, 2002

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 02-288-SPH
12943 Harford Road
S/S Harford Road, 200' E of Park Forest Lane
11th Election District – 5th Councilmanic District
Legal Owner: Tisha & Asher Rodriquez

Special Hearing to approve for office of a professional person (chiropractor) in an accessory building with more than 25% of the total floor area of owner's residence.

HEARING: Tuesday, March 12, 2002 at 9:00 a.m. in Room 407, County Courts Building, 401 Bosley Avenue

A handwritten signature in black ink, appearing to read "Arnold Jablon". The signature is fluid and cursive, with the first name "Arnold" and last name "Jablon" clearly distinguishable.

Arnold Jablon
Director

C: Francis X Borgerding Jr, 409 Washington Avenue, #600, Towson 21204
Tisha & Asher Rodriquez, 12934 Harford Road, Hydes 21082

- NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY MONDAY, FEBRUARY 25, 2002.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Baltimore County
Department of Permits and
Development Management

Development Processing
County Office Building
111 West Chesapeake Avenue
Towson, Maryland 21204
pdmlandacq@co.ba.md.us

March 8, 2002

Francis X Borgerding Jr.
409 Washington Avenue, #600
Towson MD 21204

Dear Mr. Borgerding:

RE: Case Number: 02-288A, 12943 Harford Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 8, 2002.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.

W. Carl Richards, Jr. G D Z
Supervisor, Zoning Review

WCR: gdz

Enclosures

c: Tisha A & Asher A Rodriquez, 12943 Harford Road, Hydes 21082
People's Counsel


Come visit the County's Website at www.co.ba.md.us



BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits & Development
Management

DATE: February 28, 2002

FROM:  Robert W. Bowling, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
for February 4, 2002
Item Nos. 263, 264, 265, 267, 268, 269,
270, 271, 272, 273, 274, 275, 276, 278,
279, 280, 281, 282, 283, 284, 285, 286,
287, 288, 290 and 292

The Bureau of Development Plans Review has reviewed the subject zoning items, and we have no comments.

RWB:HJO:cab

cc. File



Baltimore County
Fire Department

Office of the Fire Marshal
700 East Joppa Road
Towson, Maryland 21286-5500
410-887-4880

January 31, 2002

Department of Permits and
Development Management (PDM)
County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTENTION: George Zahner

RE: Property Owner: SEE BELOW

Location: DISTRIBUTION MEETING OF January 28, 2002

Item No.: 265, 266, 272, 277, 281, 286, (288), 291, & 292

Dear Ms. Stephens:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

4. The site shall be made to comply with all applicable parts of the Baltimore County Fire Prevention Code prior to occupancy or beginning of operation.

REVIEWER: LIEUTENANT JIM MEZICK, Fire Marshal's Office
PHONE 887-4881, MS-1102F

cc: File

Come visit the County's Website at www.co.ba.md.us



BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon

FROM: Todd Taylor

DATE: March 1, 2002

Zoning Advisory Committee Meeting of January 28, 2002

SUBJECT: NO COMMENTS for the FOLLOWING ZONING ITEMS:

263 - 265, 268, 271, 272, 275 - 277, 279 - 281, 283, 284, 286, 287, 290 - 292

Agricultural Preservation is still reviewing Zoning Items: 270, 273, 278, and 288.

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Arnold Jablon
FROM: Todd G. Taylor *TGT*
DATE: February 28, 2002
SUBJECT: Zoning Item 288
Address 12943 Harford Road

Zoning Advisory Committee Meeting of January 28, 2002

An evaluation of the water supply and sewage disposal system will be required prior to permit approval. Soil evaluations may also be required. Please contact Ground Water Management for more information.

Reviewer: Sue Farinetti

Date: February 28, 2002

Ho
3/11

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Department of Permits and
Development Management

DATE: January 31, 2002

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 12943 Harford Road

JAN 31 2002

INFORMATION:

Item Number: 02-288

Petitioner: Asher Rodriguez

Zoning: RC 2

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:

In order for this office to make an informed recommendation concerning the subject request, a set of building and sign elevation drawings should be submitted to the Office of Planning for review and approval.

Prepared by: Mark A. Quimp

Section Chief: Jeffrey W. Long

AFK:MAC:



Maryland Department of Transportation
State Highway Administration

Parris N. Glendening
Governor

John D. Porcari
Secretary

Parker F. Williams
Administrator

Date: 1.29.02

Mr. George Zahner
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 288

JJS

Dear Mr. Zahner:

We have reviewed the referenced item and have no objection to approval, as a field inspection reveals that the existing entrance(s) on to MD/US 147, are acceptable to the State Highway Administration (SHA) and this development is not affected by any SHA projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

My telephone number is _____

Maryland Relay Service for Impaired Hearing or Speech
1-800-735-2258 Statewide Toll Free

Mailing Address: P.O. Box 717 • Baltimore, MD 21203-0717
Street Address: 707 North Calvert Street • Baltimore, Maryland 21202

RE: PETITION FOR SPECIAL HEARING
12943 Harford Road, S/S Harford Rd,
2200' E of Park Forest Ln
11th Election District, 5th Councilmanic


Legal Owner: Asher A. & Tisha A. Rodriguez
Petitioner(s)


* BEFORE THE
* ZONING COMMISSIONER
* FOR
* BALTIMORE COUNTY
* Case No. 02-288-SPH

* * * * *

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.


PETER MAX ZIMMERMAN
People's Counsel for Baltimore County


CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of January, 2002 a copy of the foregoing Entry of Appearance was mailed to Francis X. Borgerding, Esq., DiNenna & Breschi, 409 Washington Avenue, Suite 600, Towson, MD 21204, attorney for Petitioner(s).


PETER MAX ZIMMERMAN

PLEASE PRINT CLEARLY

PETITIONER(S) SIGN-IN SHEET

NAME

ADDRESS

Bruce E. Dore - GRENOLD, CROSS & ETZEL 320 E. TOWNSHIP BLVD TOWSON MD 21286

J. Ashe A. Rodriguez 12943 Hartford Rd, Hydes, MD 21057



Case Number _____

PLEASE PRINT LEGIBLY

CITIZEN'S SIGN-IN SHEET

[illegible]

LONG GREEN VALLEY ASSOCIATION

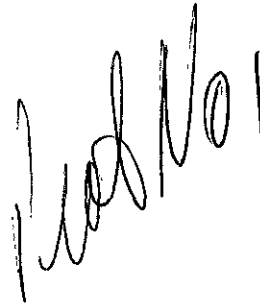
P.O. Box 91

Baldwin, Maryland 21013

On February 19, 2002 at a regular meeting of the Board of Directors of the Long Green Valley Association, the Board voted unanimously to oppose the increase of commercial development in a RC2 zone. This was in reference to the special hearing (Case # 02-288-SPH) requested by Asher Rodriguez to grant an office for a professional person (chiropractor) in an accessory building with more than 25% of the total floor area of the owner's residence (See item No. 9 in the minutes of that meeting).



***Prepared by Carol Trela, Secretary
March 12, 2002***



The Greater Kingsville Civic Association, Inc.

P. O. Box 221 KINGSVILLE, MARYLAND 21087

March 9, 2002

Regarding the request for Special Exception for a chiropractic office on Harford Road north of Fork Road

To the Zoning Commissioner—

I am writing on behalf of the Board of our association in regard to this request for a Special Exception. At our Board meeting on February 20 a vote was taken (passed unanimously) to oppose the request for Special Exception. We are concerned that the sight distance on this busy, curving section of Harford Road might present a dangerous situation. Further, we are aware that there presently exist several commercial parcels in the surrounding area which would be more appropriate locations for commercial uses such as this one.

Limiting the extent of commercial zoning is an important planning goal for rural Baltimore County. Reduced human impact on the landscape is an important ingredient in maintaining the character of our rural areas, particularly with regard to viable agriculture, environmental protection, and aesthetic merit.

We urge you to make a decision that preserves the uniqueness of sites such as this.

Thank you.

Robert Noz

Sincerely,



Doug Behr

Corresponding Secretary

IN RE: PETITION FOR SPECIAL HEARING

S/S Blenheim Road, 1050' E
centerline Dance Hill Road
10th Election District
6th Councilmanic District
(3825 Blenheim Road)

Doris Menges Hardesty, Legal Owner
and Nicholas & Karen Trionfo,
Contract Purchasers
Petitioners

*

BEFORE THE

*

DEPUTY ZONING COMMISSIONER

*

OF BALTIMORE COUNTY

*

CASE NO. 01-026-SPH

*

CASE NO. 01-027-SPH

*

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a special hearing request and variance request for property located at 3825 Blenheim Road. The petitions were filed by the legal owner of the subject property, Doris Menges Hardesty and the contract purchasers, Nicholas and Karen Trionfo. The first special hearing request is from Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve a home office as an accessory use which is not physically situated within the principal residence, but rather in an existing unattached building. The second special hearing request is to approve the continued use of 2 dwellings on a single lot. That particular special hearing request was withdrawn at the hearing. Finally, a variance is requested to permit a 0 ft. rear yard setback in lieu of the required 2 ½ ft. for an accessory building.

Appearing at the hearing on behalf of the special hearing and variance requests were Bruce Doak with Gerhold, Cross & Etzel, the firm who prepared the site plans of the property, Mr. and Mrs. Nicolas Trionfo, purchasers of the property, Scott Breza and Deborah Dopkin, attorneys at law representing the Petitioners. There were no protestants in attendance.

Testimony and evidence indicated that the property, which is the subject of this special hearing request, consists of 2.356 acres, more or less, zoned RC 4. The subject property is

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[Signature]

situated on the south side of Blenheim Road east of Dance Mill Road in Phoenix. The property is improved with 3 separate buildings, all of which were dwellings up until the time of this hearing. The Trionfo's are interested in purchasing the entire property and utilizing the main 2 ½ story dwelling as their principal residence. They further intend to convert the other 2 dwellings on the property to accessory uses to their principal dwelling. They have no intention of continuing to utilize the other structures as living quarters. They will remove whatever facilities are necessary in order to convert the other structures to accessory uses.

As stated previously, the Petitioners originally requested a special hearing to approve 2 structures as residential dwellings as non-conforming uses. However, that particular request was withdrawn at the hearing, based on the agreements that have been reached between the Trionfo's and their adjacent neighbors. An agreement was submitted into evidence as Petitioners' Exhibit No. 3 and has been signed by many of the neighbors, as well as the contract purchasers herein. At this time, the plans of the Trionfo's are as follows. They intend to live in the 2 ½ story dwelling, will utilize the existing structure situated on the rear property line as a home office for Mr. Trionfo, and will utilize the third structure along the southern property line as a storage building. In order to accomplish these plans, the special hearing to allow the home office to be located within an accessory structure not attached to the principal dwelling is necessary. Furthermore, a variance for that structure to exist on the property line as it has for many years is also necessary.

Based on the agreements reached between the contract purchasers and the surrounding residents, as well as the testimony and evidence offered at the hearing, I find that the special hearing and variance should be granted.

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R. Trionfo

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship would result if the special hearing were not granted. It has been established that the requirements from which the Petitioners seeks relief would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the relief requested will not be detrimental to the public health, safety or general welfare, and meets the spirit and intent of the B.C.Z.R.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and their property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether a grant of the variance would do a substantial justice to the applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give sufficient relief; and,
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. Of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 18th day of September, 2000, that the Petitioner's Request for Special Hearing from Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), to approve a home office as an accessory use which is not physically situated within the principal residence, but rather in an

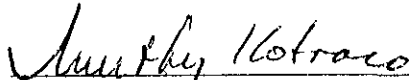
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9/18/00
P. J. JAMESON

existing unattached building, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The agreement entered into between the Trionfo's and adjacent property owners, submitted into evidence as Petitioner's Exhibit No. 3, shall be incorporated into this Order and enforceable as if part of this Order.
2. The Petitioner shall be permitted to utilize the detached accessory structure as a home office for his business. However, he shall not in any way store any construction equipment or building materials anywhere on this property.
3. The Petitioner shall discontinue utilizing either of the accessory buildings as residential dwellings and shall take whatever steps are necessary to remove such facilities, so as to make those structures accessory to the principal dwelling on the property.

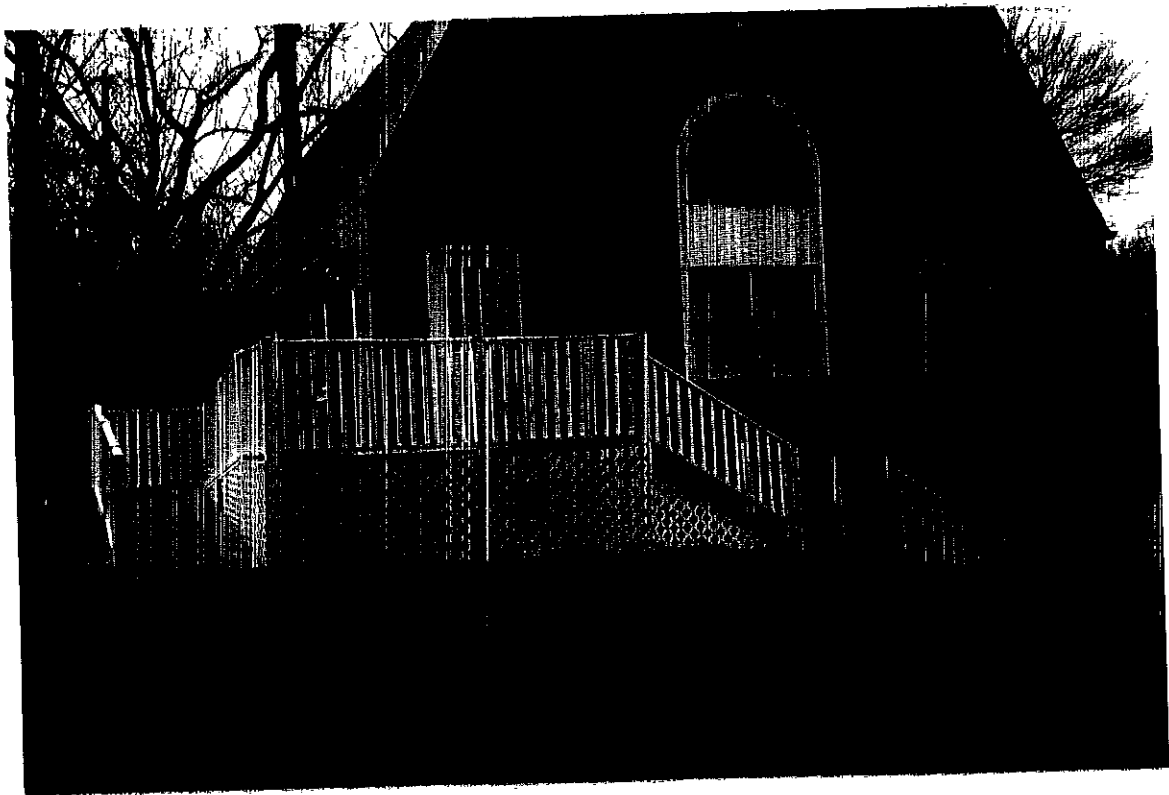
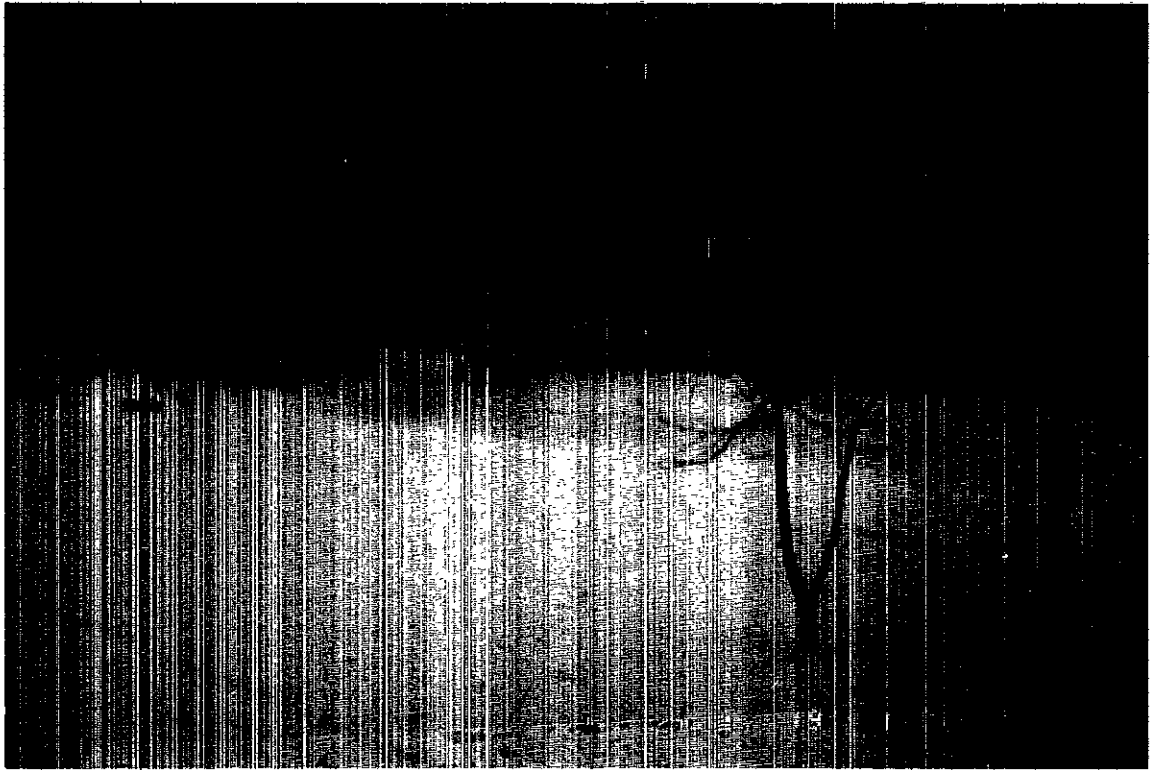
IT IS FURTHER ORDERED that the variance requested to permit a 0 ft. rear yard setback in lieu of the required 2 ½ ft. for an accessory building, be and is hereby APPROVED.

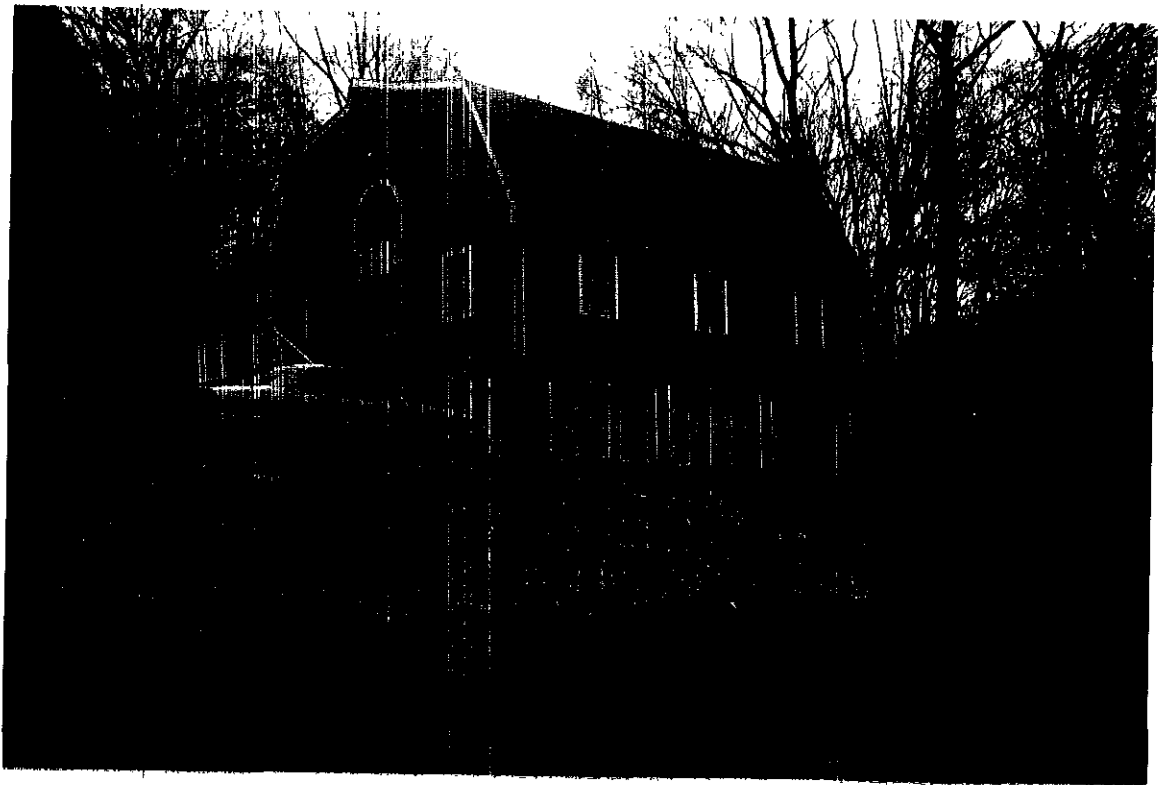
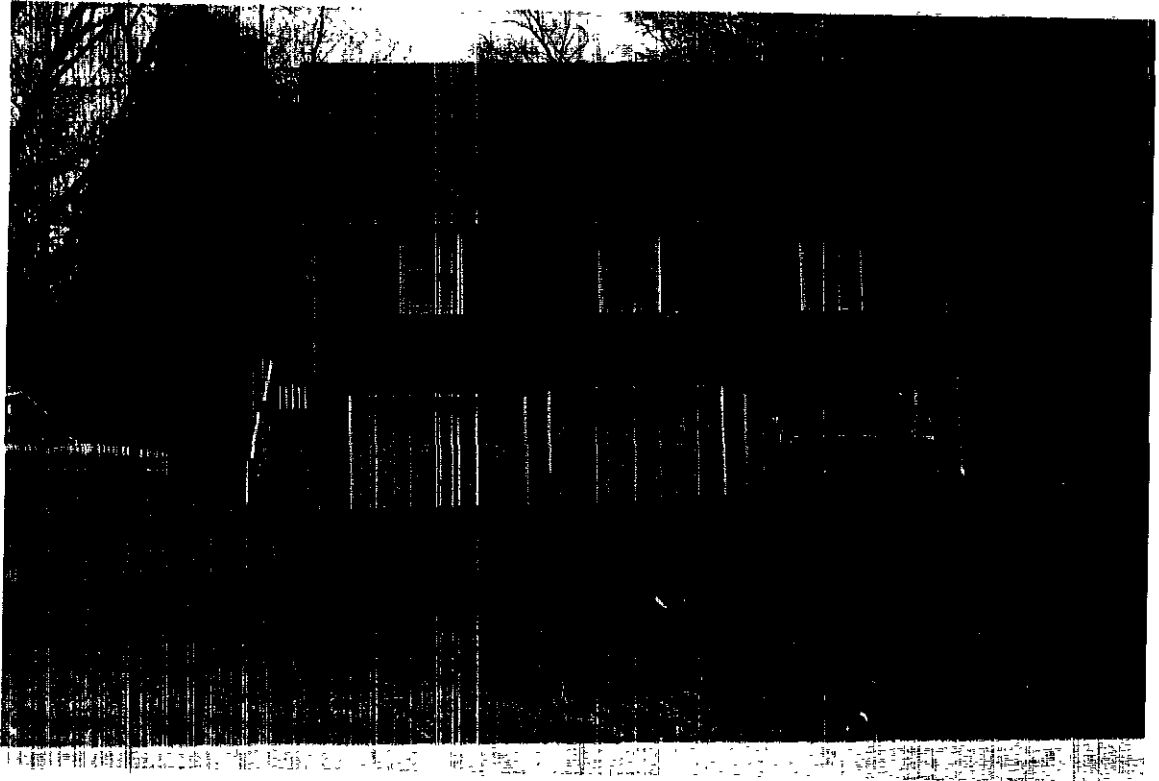
IT IS FURTHER ORDERED, that any appeal of this decision must be filed within thirty (30) days from the date of this Order.


TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

Photograph (6)
02-288-5PH

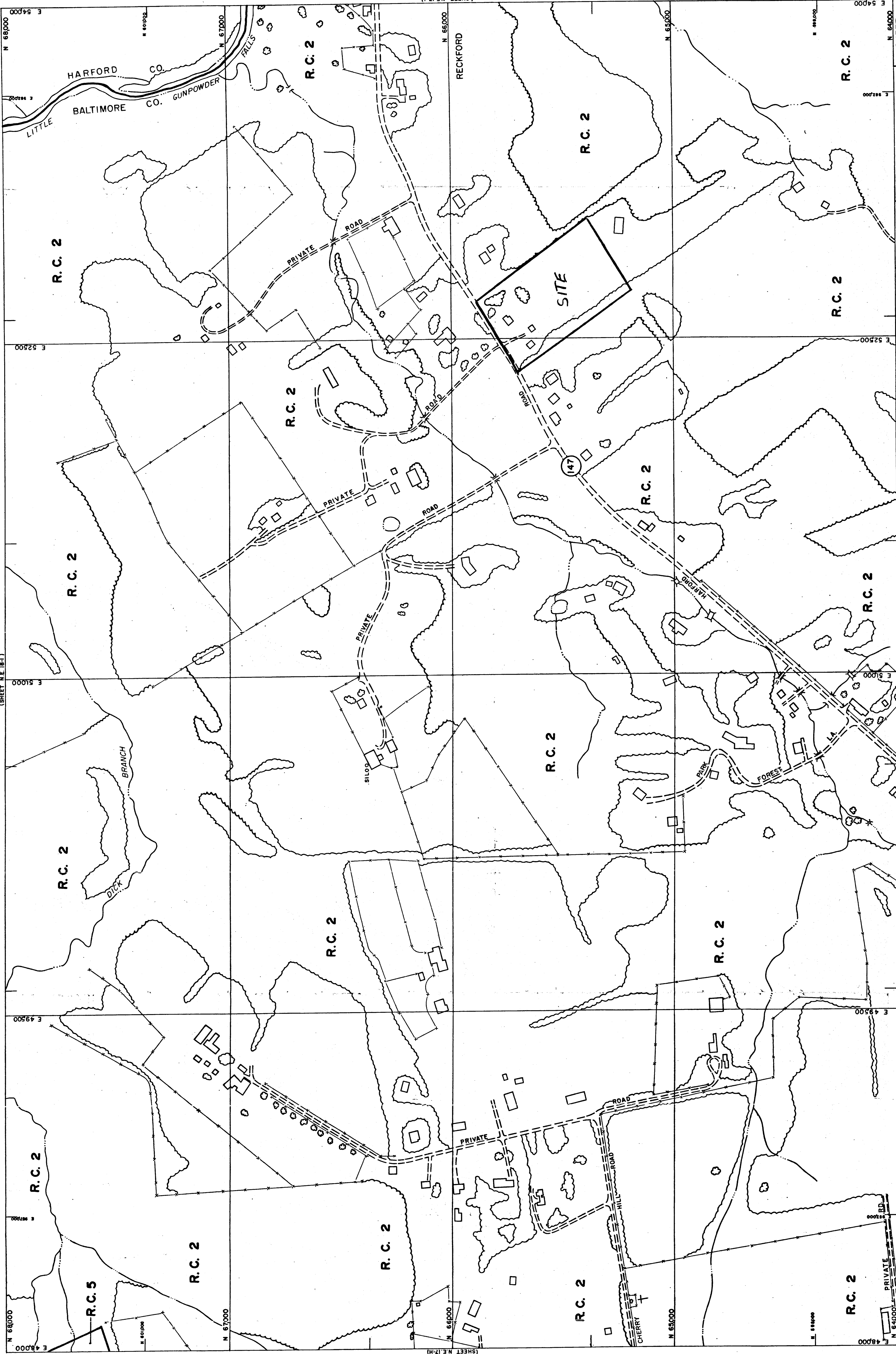






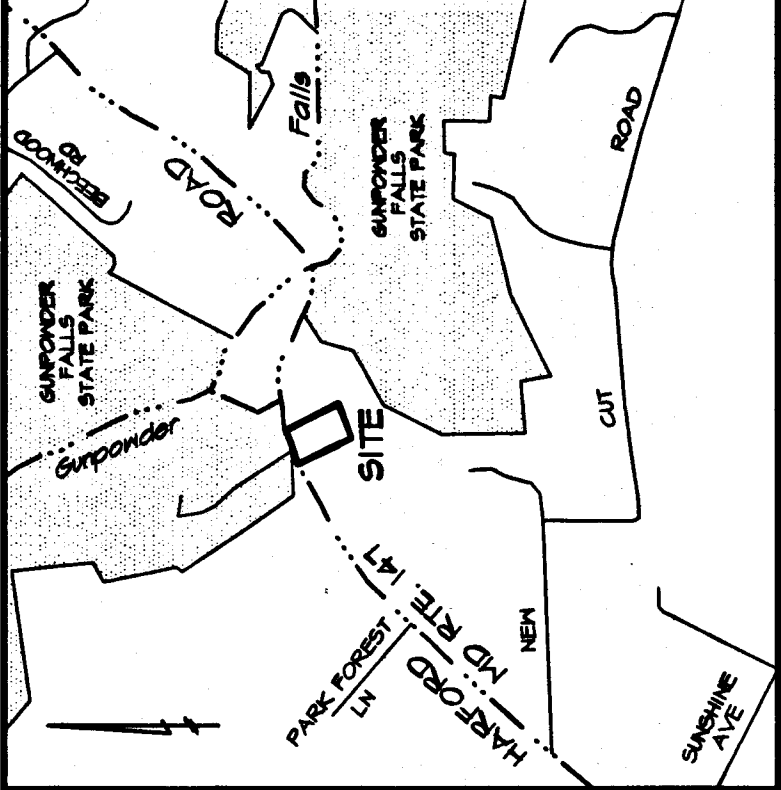
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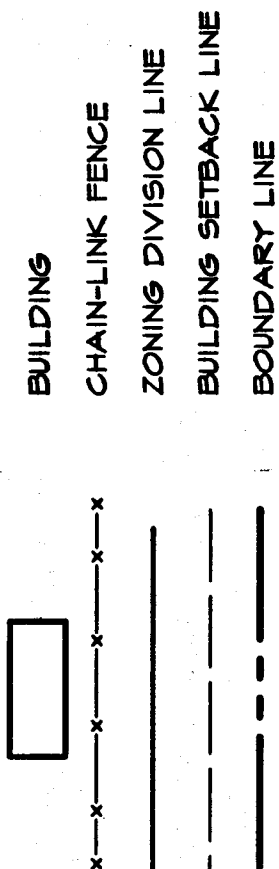
U.U.-SE	2000 COMPREHENSIVE ZONING MAP ADOPTED BY THE BALTIMORE COUNTY COUNCIL OCTOBER 10, 2000 STATE NOS. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00 <i>James B. ...</i> Chairman, County Council	BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING OFFICIAL ZONING MAP	SCALE 1" = 200' ± DATE OF PHOTOGRAPHY JANUARY 1986	LOCATION NORTH OF FORK	SHEET N.E. 17-1

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210



VICINITY MAP
SCALE: 1" = 2000'

LEGEND



GENERAL NOTES

1. OWNER, ASHER A. RODRIGUEZ AND TISHA S. RODRIGUEZ
13448 HARFORD ROAD
HYDRES NO. 21002
2. TAX ACCOUNT NO. 110R0010203
3. TITLE DEED LIBER 514, 1934/1780
TOTAL AREA = 5344 AC.
4. THE PROPERTY IS ZONED R-2
5. 200' SCALE ZONING MAP NO. 1E 11.
6. THE BOUNDARY SHOWN HEREON IS FROM THE TITLE DEED,
A BOUNDARY HAS NOT PERFORMED BY GERMOLD GAZDES & ETZEL LTD.
7. FEATURES SHOWN HEREON WERE TAKEN FROM BALTIMORE
COUNTY MAPS PANEL 54 C1
8. CENSUS TRACT
41101
T 86
SCHOOL DISTRICT
9. A.D.C. MAP 1 GRID
SUBMERGED
AT
REGIONAL PLANNING DISTRICT 310
10. THIS SITE IS SERVICED BY SEPTIC AND WELL.
11. THIS SITE IS NOT IN THE CHEAPEANSE BAY CRITICAL AREA,
NO PRIOR ZONING CASES.
12. ACCORDING TO THE TAX RECORDS, THE EXISTING DWELLING AND OUT BUILDING
HAVE BEEN IN EXISTENCE SINCE 1910.

PETITION

Special Hearing to approve an office of a chiropractor in an accessory building with more than 25% of the total floor area of owners' residence

PETITIONER'S
EXHIBIT #1

**PLAT TO ACCOMPANY
A ZONING PETITION
FOR A SPECIAL HEARING
OF THE**

OF THE

RODRIGUEZ PROPERTY

2943 HARFORD ROAD
BALTIMORE COUNTY
Zoned: RC 2

11th ELECTION DISTRICT
5th COUNCILMANIC DISTRICT
SCALE: 1"=50' DATE: October 31, 2001

GERHOLD, CROSS & ETZEL, LTD
REGISTERED PROFESSIONAL LAND SURVEYORS

Suite 100
320 East Towsontown Boulevard
Towson, Maryland 21286
(410) 823-4470

FILE NAME: X:\rodriguez\Zoning.pro

TECHNICIAN: KND

DATE _____

REVISION

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